

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JEFFREY S. NEDD,

Petitioner,

v.

LANDON BIRD,

Respondent.

1:22-cv-00704-JLT-HBK (HC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

(Doc. No. 15)

Before the court is Petitioner's motion for appointment of counsel. (Doc. No. 15). Petitioner, a state prisoner proceeding pro se, has pending a petition for writ of habeas corpus filed under 28 U.S.C. § 2254. (Doc. No. 1). Petitioner requests that the Court to appoint counsel to represent him in this matter. (Doc. No. 15).

There is no automatic, constitutional right to counsel in federal habeas proceedings. *See Coleman v. Thompson*, 501 U.S. 722, 752 (1991); *Anderson v. Heinze*, 258 F.2d 479, 481 (9th Cir. 1958). The Criminal Justice Act, 18 U.S.C. § 3006A, however, authorizes this court to appoint counsel for a financially eligible person who seeks relief under § 2241 when the "court determines that the interests of justice so require." *Id.* at § 3006A(a)(2)(B); *see also Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986). Moreover, the *Rules Governing Section 2254 Cases in the United States District Courts* require the court to appoint counsel: (1) when the court has

1 authorized discovery upon a showing of good cause and appointment of counsel is necessary for
2 effective discovery; or (2) when the court has determined that an evidentiary hearing is warranted.
3 *Id.* at Rs. 6(a) and 8(c).

4 Based upon the record, the Court finds Petitioner has not demonstrated that appointment
5 of counsel is necessary at this stage of the proceedings. Petitioner was able to file his habeas
6 petition and an opposition to Respondent's Motion to Dismiss without the aid of counsel.
7 Further, the Court finds the circumstances of this case at this time do not indicate that appointed
8 counsel is necessary to prevent due process violations.

9 Accordingly, it is **ORDERED**:

10 Petitioner's motion for appointment of counsel (Doc. No. 15) is **denied without**
11 **prejudice.**

12
13 Dated: February 2, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE